

## SUBCHAPTER E—GENERAL CONTRACTING REQUIREMENTS

### PART 3029—TAXES [RESERVED]

### PART 3030—COST ACCOUNTING STANDARDS ADMINISTRATION

#### Subpart 3030.2—CAS Program Requirements

Sec.

3030.201 Contract requirements.

3030.201-5 Waiver.

AUTHORITY: 41 U.S.C. 418b (a) and (b).

SOURCE: 68 FR 67871, Dec. 4, 2003, unless otherwise note.

#### Subpart 3030.2—CAS Program Requirements

##### 3030.201 Contract requirements.

##### 3030.201-5 Waiver.

(b)(1) The CPO is authorized to waive the application of the Cost Accounting Standards to individual firm fixed-price contracts for the acquisition of commercial items. This authority may not be redelegated.

(2) Submit waiver requests per (HSAR) 48 CFR 3001.7000(a), for review and transmittal by the CPO to the Cost Accounting Standard Board.

### PART 3031—CONTRACT COST PRINCIPLES AND PROCEDURES

#### Subpart 3031.2—Contracts with Commercial Organizations

Sec.

3031.205 Selected costs.

3031.205-32 Precontract costs.

AUTHORITY: 41 U.S.C. 418b (a) and (b).

SOURCE: 68 FR 67871, Dec. 4, 2003, unless otherwise note.

#### Subpart 3031.2—Contracts with Commercial Organizations

##### 3031.205 Selected costs.

##### 3031.205-32 Precontract costs.

(a) The decision to incur precontract costs is that of the contractor. DHS employees may not can authorize, demand, or require a contractor to incur

precontract costs. The contracting officer must advise the prospective contractor that any costs incurred before contract award are incurred at the contractor's sole risk and that if negotiations fail to result in a binding contract, payment of these costs will not be made by the Government. See (HSAR) 48 CFR 3032.205-32(b) regarding exception due to reconciliation of costs.

(b) When the contracting officer determines that incurring precontract costs was necessary to meet the proposed contract delivery schedule of a cost-reimbursement contract, the clause at (HSAR) 48 CFR 3052.231-70, Precontract Costs, may be inserted in the resultant contract.

### PART 3032—CONTRACT FINANCING

#### Subpart 3032.000—Scope of Part

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3032.003 Simplified acquisition procedures financing.

3032.006 Reduction or suspension of contract payments upon finding of fraud.

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3032.1110 Solicitation provision and contract clauses.

AUTHORITY: 41 U.S.C. 418b (a) and (b).

SOURCE: 68 FR 67871, Dec. 4, 2003, unless otherwise note.

#### Subpart 3032.000—Scope of Part

##### 3032.003 Simplified acquisition procedures financing.

Contract financing may be permitted for purchases made under the authority of (FAR) 48 CFR Part 13. This authority is delegated to COCO and may not be redelegated.

## **3032.006**

### **3032.006 Reduction or suspension of contract payments upon finding of fraud.**

#### **3032.006-2 Definition.**

The CPO is the DHS remedy coordination official (RCO).

#### **3032.006-3 Responsibilities.**

(a) The CPO is authorized to establish specific procedures.

(b) Reports shall be made through the HCA to the CPO.

### **Subpart 3032.11—Electronic Funds Transfer**

#### **3032.1110 Solicitation provision and contract clauses.**

(a)(1) Contracting officer shall insert FAR 48 CFR 52.232-33, Payment by Electronic Funds Transfer—Central Contractor Registration, in all proposed solicitations and contracts.

## **PART 3033—PROTESTS, DISPUTES, AND APPEALS**

### **Subpart 3033.2—Disputes and Appeals**

Sec.

3033.201 Definitions.

3033.211 Contracting officer's decision.

3033.214 Alternative disputes resolution (ADR).

AUTHORITY: 41 U.S.C. 418b (a) and (b).

SOURCE: 68 FR 67871, Dec. 4, 2003, unless otherwise note.

### **Subpart 3033.2—Disputes and Appeals**

#### **3033.201 Definitions.**

*Agency Board of Contract Appeals* means the Department of Transpor-

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tation Board of Contract Appeals (DOTBCA).

#### **3033.211 Contracting officer's decision.**

For DHS contracts, the Board of Contract Appeals (BCA) noted in (FAR) 48 CFR 33.211 is the Department of Transportation Board of Contract Appeals (DOTBCA) (S-20), 400 7th Street, S.W., Washington, DC, 20590. The DOTBCA Rules of Procedure are contained in 48 CFR Chapter 63, Part 6301. TSA shall use the DOTBCA for only Contract Disputes Act (CDA) requirements.

#### **3033.214 Alternative dispute resolution (ADR).**

(c) The Administrative Dispute Resolution Act (ADRA) of 1996, as amended, 5 U.S.C. 571, *et seq.*, authorizes and encourages agencies to use mediation, conciliation, arbitration, and other techniques for the prompt and informal resolution of disputes, and for other purposes. The DOTBCA ADR procedures are contained in 48 CFR chapter 63, section 6302.30, ADR Methods (Rule 30), and will be distributed to the parties, if ADR procedures are used. These procedures may be obtained from the DOTBCA upon request. ADR procedures may be used when—

(1) There is mutual consent by the parties to participate in the ADR process (with consent being obtained either before or after an issue in controversy has arisen);

(2) Prior to the submission of a claim; and

(3) In resolution of a formal claim.

## **PART 3034—MAJOR SYSTEM ACQUISITION [RESERVED]**